

COMMISSIONERS' ORDINANCE NO. 0-14-19

AN ORDINANCE REPEALING AND REENACTING CHAPTER 39 OF THE COVINGTON CODE OF ORDINANCES, ESTABLISHING A COMPREHENSIVE PUBLIC RECORD AND TRANSPARENCY POLICY.

* * * *

WHEREAS all public agencies within the Commonwealth of Kentucky are subject to the Kentucky Open Records Act ("KORA") (KRS 61.870 to KRS 61.884), declaring that "free and open examination of public records is in the public interest" (KRS 61.871); and

WHEREAS KRS 61.876(1) directs public agencies subject to KORA to adopt "rules and regulations in conformity with the provisions of KRS 61.870 to KRS 61.884 to provide full access to public records" aimed at ensuring "efficient and timely action in response to application for inspection" as well as "protect[ing] public records from damage and disorganization" and "prevent[ing] excessive disruption of its essential functions;" and

WHEREAS uniformity in implementation and enforcement of KORA within the City of Covington, and all public agencies operating under the City of Covington's jurisdiction, promotes these goals; and

WHEREAS the City of Covington recognizes its duty to adopt rules and regulations that conform to the provisions of KORA by implementing and enforcing a uniform and comprehensive policy, available in an electronic format on the City's website, <https://www.covingtonky.gov/>, or in hard copy format by request, which supplements but does not supersede, modify, limit, replace, or in any other way abrogate, existing rights and duties under KORA; and

WHEREAS the City of Covington further recognizes its additional duty under KRS 61.876(1) to display open records rules and regulations that satisfy the specific legal requirements found in KRS 61.876(1)(a) to (d) in a prominent location in each of its offices to which the public has access, and to make those open records rules and regulations available in an electronic format on the City website and in hard copy format by request.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Chapter 39 of the Covington Code of Ordinances is hereby repealed in its entirety and reenacted to read as follows:

OPEN RECORDS, DOCUMENT RETENTION, AND TRANSPARENCY

OPEN RECORDS POLICY

§ 39.01 TITLE.

This subchapter shall be known as and may be cited as the "Covington Open Records Policy."

§ 39.02 APPLICATION.

This ordinance shall be applied uniformly and consistently by the City of Covington and all public agencies operating under the jurisdiction of the City of Covington, including the Covington Municipal Properties Corporation, the Covington Development Properties Corporation, the Covington Parking Authority, the Covington Economic Development Agency, Devou Properties, Inc. and any public agency, as defined in KRS 61.870, created hereafter.

§ 39.03 DEFINITIONS.

(A) **Public Record.** *All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency.*

(B) **Open Record.** *A record, or any part thereof, that does not fall under one or more statutory exemptions authorizing nondisclosure and must therefore be disclosed to the public.*

(C) **Official Custodian of Records.** *The City Clerk is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control.*

(D) **Commercial purpose.** *The direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee. "Commercial purpose" excludes the publication or related use of a public record by a newspaper or periodical; the use of a public record by a radio or television station in its news or other informational programs; or the use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties.*

(E) **Medium and Mechanical Processing.** *"Medium" means the physical material in or on which records may be stored or copied; "mechanical processing" means any operation or other copying procedure transacted on a machine, including a copier, computer, recorder or tape processor, or other automated device.*

Statutory References:

KRS 61.870(2); KRS 61.870(4)(a) and (b); KRS 61.870(5); KRS 61.870(7); KRS 61.870(8); KRS 83A.085(3)(b)

§ 39.04 REQUESTING PUBLIC RECORDS.

(A) Open Records Rules and Regulations governing access to the public records of the City of Covington, conforming to the provisions of KRS 61.870 to 61.884, shall be posted on the City's website and in a prominent location in all City offices to which the public has access.

(B) Open records that are prepared, owned, used, in the possession of, or retained by the City of Covington, and all public agencies operating under its jurisdiction, including those that are stored offsite or managed and maintained by a private vendor, shall be accessible to the public by means of onsite inspection, by delivery of copies through the U.S. Mail, or, if the length of the document does not exceed 15 pages, by electronic transmission. Delivery of copies by mail is limited to requesters who reside, or have their principal place of business, outside of Kenton County who precisely describe the requested records "which are readily available within the public agency" and who prepays for copies and postage.

(C) No charge may be imposed for onsite inspection of open records, and suitable facilities shall be made available for this purpose. The City shall determine whether suitable facilities for onsite inspection of electronic records includes the use of City computers on a case by case basis, focusing on availability (burdensomeness), system security, and the existence of reasonable alternatives.

(D) A reasonable fee, as described in § 39.06, may be imposed for copies of open records, including postage if the copies are mailed to the requester, and prepayment shall be required.

(E) All requests for public records shall be written and signed by the applicant with his name printed legibly and transmitted by U.S. Mail, facsimile, hand-delivery, or e-mail.

(F) Open records requests shall be directed to the City Clerk or the City Clerk's designee. In the City Clerk's absence, at least one designee shall be authorized to perform all open records duties assigned to the City Clerk to ensure the timely and uniform processing of records requests. Misdirected requests shall be transmitted immediately to the City Clerk or the City Clerk's designee and every City official or employee is responsible for ensuring immediate transmission of all misdirected requests to the City Clerk or the City Clerk's designee.

(G) The City Clerk or the City Clerk's designee shall ensure that open records requests are routed to all public agencies, and officers or employees attached to those agencies, operating under the city's jurisdiction, for the purpose of making "a good faith effort to conduct a search using methods which can reasonably be expected to produce the records requested." Those agencies, and their officers and employees, shall immediately locate, retrieve, and transmit to the City Clerk all responsive records located on public or private premises or devices for review, redaction, and disclosure or nondisclosure based on the records' content. Those agencies, and their officers and employees, shall communicate to the City Clerk or the City Clerk's designee any legally supportable claim of exemption based on the content of the records.

(H) Written requests must contain a description of the records sought, the signature of the requester, and the requester's name printed legibly or typed. A preprinted form is available for the requester's use and convenience on the City's website at <https://www.covingtonky.gov/>, or by request, but the requester is not required to use the form as a condition of obtaining open records. The City Manager or the City Manager's designee shall have the authority to create an appropriate form for the requestor's use and convenience.

(I) A request to conduct onsite inspection of open records containing a description of the records that is "adequate for a reasonable person to ascertain [its] nature and scope" is legally sufficient. A request that copies of open records be mailed to the requester must contain a "precise description" of the records, and those records must be "readily available." The City Clerk or the City Clerk's designee may communicate with the requester to eliminate any confusion or doubt as to the scope of the request, or to otherwise facilitate access, but shall not ask the requester how the requester intends to use the records or the purpose of the request.

(J) Access to public records shall be granted, or denied, based on the records' content and not on the identity of the requester or the requester's purpose or intended use of the records.

(K) Public agencies, and officials and employees of public agencies, shall comply with the City's uniform open records policy in accessing public records of the City or public agencies operating under its jurisdiction but shall, pursuant to KRS 61.878(5) enjoy an enhanced right of access to otherwise exempt public records if the public records are necessary in the performance of a legitimate government function or serve a legitimate governmental need. Public agencies, officials, or employees who obtain otherwise exempt public records for these purposes shall ensure the records are not publicly disclosed.

(L) No requester shall be required to produce proof of identity to inspect, or obtain copies of, open records.

(M) No requester shall be permitted to remove original copies of City records from City offices without the written permission of the City Clerk or the City Clerk's designee.

Statutory References:

KRS 61.872(1); KRS 61.872(2); KRS 61.872(3); KRS 61.872(3)(b); KRS 61.874(3); KRS 61.874(4); KRS 61.878(5);

§ 39.05 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (A) The City's final written response to a public records request shall be issued within three business days. This excludes Saturdays, Sundays, and legal holidays.
- (B) In calculating the three day response time, the City may exclude the date on which the request arrived by U.S. Mail, fax, hand-delivery, or e-mail.
- (C) If the public records request requires production of open records that are "in active use, in storage, or not otherwise available," the City shall notify the requester, in writing and no later than the third business day, that it cannot immediately produce the requested records. The phrase "not otherwise available" has been construed by the Attorney General to include requests for voluminous open records. The written response shall include a citation to KRS 61.872(5) and a "detailed explanation of the cause for delay." The demands of other public duties does not constitute a legally recognized basis for postponing release of the records. The written response shall also state the earliest date and time the records will be available. The written response to a request to inspect such records shall identify the place at which the records will be available for inspection in suitable facilities. The written response to a request for copies of such records by mail shall state that the requester will be notified of the actual cost of copying and postage on the same day the records are located, retrieved, and reviewed and that the records will be mailed upon prepayment of the copying and postage charges.
- (D) The absence of the City Clerk or the City Clerk's designee does not suspend or delay the three day deadline for final written response.
- (E) The response shall be issued by the City Clerk or the City Clerk's designee, or under the clerk's or designee's authority. The City shall maintain a comprehensive open records register to track all incoming open records requests and the disposition of those requests.
- (F) The City's final written response to a public records request, issued on the third business day, shall notify the requester that the request will be granted or denied. A written response to a request to conduct onsite inspection of open records, notifying the requester that the request is granted, shall advise the requester that the records are immediately available for inspection during the City's regular business hours at a specifically designated location where suitable facilities are available.
- (G) The City's final written response to a request for copies of open records by mail, notifying the requester that the request is granted, shall advise the requester that the open records will be mailed upon receipt of payment to "City of Covington" in a specified amount based on the actual cost of reproduction and postage cost.

(H) The City's final written denial of a request to inspect or obtain copies of exempted public records shall advise the requester that the request is denied, identify one or more of the sixteen statutory exemptions found at KRS 61.878(1)(a) through (p), and provide a detailed explanation of how the exemption(s) apply to the records, or any portion thereof, withheld. The City recognizes that it has the burden of proof in sustaining denial of an open records request in an administrative challenge to the Kentucky Attorney General and the burden of proof in sustaining the denial in a judicial challenge in the courts.

(I) The City is not, in general, required to grant a request for information, as opposed to a request for existing public records. For example, "What were the results of the City's last audit" is an improper request that the City is not obligated to grant. "Please provide a copy of the City's most recent audit" is a proper request that the City is obligated to grant.

(J) If the requester seeks records that the City does not now have, nor ever had, custody or control of, the City shall notify the requester of this fact in writing. If the identity of the actual custodial agency is known, the City shall furnish the requester with the name and location of the official custodian of the agency's public records.

(K) If the requester seeks City records that cannot be located, have been prematurely destroyed through error or inadvertence, or were required by law to be created but were never created, the City shall provide the requester with a candid explanation for the unavailability of the records. Destruction of a public record after a request is received is wholly impermissible and may constitute a violation of KRS 61.991(2)(a), relating to willful concealment or destruction of a public record and punishable as a Class A misdemeanor, or a violation of KRS 519.060(1)(b), relating to tampering with public records and punishable as a Class D felony.

(L) Records that originated in another public agency but are in the City's custody as a "casual possessor" must be treated as City records unless state or federal law expressly require otherwise. The City shall respond to a request for such records as it would respond to any other records request but may wish to consult with the agency from which it obtained the records to ascertain if there is a legally supportable claim for exemption that the City should assert.

(M) The City may deny a public records request that imposes “an unreasonable burden in producing public records” or “repeated requests” that the City Clerk or the City Clerk’s designee “has reason to believe are intended to disrupt other essential functions of the public agency” based upon “clear and convincing evidence” of an unreasonable burden or intent to disrupt essential functions.¹

(N) The City shall, upon payment of a reasonable fee as described in § 39.06, provide a requester with a copy of any open record it has permitted the requester to inspect. Inspection and copying are corollary rights.

Statutory References:

KRS 61.872(3)(b); KRS 61.874(1); KRS 61.880(1); KRS 61.872(5); KRS 61.880(2)(c), KRS 61.882(3); KRS 61.872(4); KRS 61.872(6)

§ 39.06 COPIES OF OPEN RECORDS.

(A) The City shall not restrict the use of personal devices, including but not limited to scanners, cameras, computers, and copiers, by a requester wishing to make his own copy of an open record. The City may, however, take appropriate steps to ensure that duplication by a requester will not damage or alter the original records.

(B) The City shall not restrict the ability of any person to make handwritten notes while inspecting an open record.

(C) The City shall provide copies of open records used for commercial or noncommercial purposes in standard hard copy format where the City currently maintains the records in hard copy format. The City is not required to convert hard copy format records to electronic formats but may do so at its discretion. If the open records are maintained in electronic format, the requester may designate in which format, hard copy or electronic, the records shall be reproduced.

¹ The courts have recognized that clear and convincing evidence is a “high proof threshold” but have not indicated what evidence meets this threshold. The Attorney General focuses on the number of records involved, or a good faith estimate of the number of records involved, the difficulties associated with locating, retrieving, reviewing, and redacting the records, whether one or more of the exemptions to public inspection require the redaction of particular information in the records, the number of staff hours, or a good faith estimate of the number of staff hours, required to fulfill the request, and the approximate cost to the agency based on these factors. A detailed description of the burden that includes this information shall be included in any denial based on unreasonable burden. Specific proof of bad faith, such as duplicative requests or requests that the agency grants but the requester never picks up, shall be included in any denial based on intentional disruption of essential agency functions. KRS 61.872(6) should only be invoked to deny access to public records in the most extreme and flagrant cases.

(D) The City shall impose no fee for inspection of open records. Upon inspection, the requestor shall be charged the fees described in this section if h/she requests copies.

(E) The City shall notify a requester in advance if the anticipated costs of reproduction exceed a stipulated amount or if the anticipated costs of reproduction will exceed \$25.00.

(F) The City shall not recover as part of its actual costs of reproduction any charge assessed by a private contractor or outside entity retained to archive, manage, recover, or retrieve City records or otherwise assist in fulfilling a request.

(G) Upon agreement with the requester, the City shall arrange with an outside contractor, at the most economical rate available, to reproduce records which it lacks duplication equipment to reproduce itself (ex. oversized maps, photo quality visual images) and may recover the actual charge assessed by the outside contractor.

(H) Absent a statute authorizing a specific fee relating to a particular type of record, the City shall reproduce hard copy open records requested for a noncommercial use in a standard 8 ½ by 11 inch format for a fee of ten cents (\$0.10) per page. No fee shall be imposed for staff time, including staff time expended in retrieving, reviewing, redacting, or reproducing the record.

(I) The City shall provide copies of electronic records requested for noncommercial use in the records' native electronic format, or an electronic format mutually agreed upon but not routinely maintained, for a fee based on the actual cost of the medium on which the records are copied and, in the case of a nonroutine format, any mutually agreed upon conversion costs. Records requested in electronic format shall be provided on a CD for a fee of twenty cents (\$0.20) per CD. The City shall impose no fee for direct electronic transmission of open records from the City to the requester, there being no associated costs. In no case shall the City impede access to or searchability of electronic records.

(J) If the City and the requester are unable to reach an agreement on an electronic format, the City shall convert the electronic records to a flat file electronic American Standard Code for Information Interchange (ASCII), the standard electronic format established by KRS 61.874(2)(b). The City shall not recover any cost associated with conversion to this format.

(K) The City shall reproduce open records requested for commercial use ("any use by which the user expects a profit either through commission, salary, or fee") using the same factors found in § 39.06: H., I., and J., but may, in addition, recover staff costs incurred in connection with retrieval, review, redaction, and reproduction. The City may ask whether the requester intends to use the open records for a commercial purpose. If the requester confirms that the records will be used for a commercial purpose, the City may require the requester to submit a certified statement of the commercial purpose for which the records will be used. The City may also require the requester to enter into a contract for the stated commercial purpose for a specified fee. Any misrepresentation of, or deviation from, the requester's stated commercial or noncommercial purpose may be actionable by the City as provided in KRS 61.874(5) and KRS 61.8745.

Statutory References:

KRS 61.872(3)(a) and (b); KRS 61.874(1); KRS 61.874(2)(a); KRS 61.874(3); KRS 61.874(4)(c); KRS 61.874(4).

§ 39.07 STATUTORY EXEMPTIONS

(A) Kentucky courts recognize “[t]he unambiguous purpose of the Open Records Act is the disclosure of public records even though such disclosure may cause inconvenience or embarrassment,” but that “[d]espite its manifest intention to enact a disclosure statute, the General Assembly determined that certain public records should be excluded from disclosure” and that “[f]rom the exclusions we must conclude that with respect to certain records, the General Assembly has determined that the public's right to know is subservient to statutory rights of personal privacy and the need for governmental confidentiality.”

(B) To promote accountability and ensure “open, honest, transparent and efficient government practices and policies,” the City has adopted a Revised Transparency Policy at Sections 39.10 & 39.11 of the City of Covington Code of Ordinances. The Revised Transparency Policy is intended to facilitate streamlined access to frequently requested records that do not compromise statutory rights of personal privacy or the need for governmental confidentiality by posting those records on the City’s website, <https://www.covingtonky.gov/>, for immediate access. Sections 39.10 & 39.11 of the City of Covington Code of Ordinances supplements, but does not supersede, modify, or limit rights guaranteed under Kentucky’s Open Records Act, KRS 61.870, et seq., and persons or entities wishing to obtain records and information identified in the Ordinance may do so by means of an open records request.

(C) In all other cases, the City shall exercise a presumption in favor of openness except those in which the public’s right to know must yield to “statutory rights of personal privacy or the need for governmental confidentiality.”

(D) The General Assembly has enacted sixteen statutory exemptions found at KRS 61.878(1)(a) through (p). In interpreting and applying these exemptions, the City shall be guided by the express language of the exemptions, caselaw construing the exemptions, and administrative guidance provided by the Kentucky Attorney General.

(E) The exemptions found at KRS 61.878(1)(a) through (p) shall be “strictly construed” pursuant to the statement of legislative policy in KRS 61.871.

(F) Pursuant to KRS 61.878(1)(p), “[c]ommunications of a purely personal nature unrelated to any governmental function” shall be exempt from public access. Communications from non-governmental employees that address campaign or election issues, matters before the board of commissioners, or general City business are not purely personal and shall be subject to disclosure.

(G) In the event the City Clerk or the City Clerk's designee requires assistance in determining whether to waive the City's right to refuse access to material excluded from public inspection, the City Clerk or the City Clerk's designee shall immediately request assistance from the Office of the City Solicitor. If the Office of City Solicitor requires assistance in determining whether to waive the City's right to refuse access to material excluded from public inspection, that Office shall immediately request assistance from the Covington City Manager. If the Covington City Manager requires assistance in determining whether to waive the City's right to refuse access to material excluded from public inspection, the City Manager shall immediately request assistance from the Covington Board of Commissioners who shall make the determination, notify the City Clerk or the City Clerk's designee, and direct issuance of a final response.

(H) In accordance with applicable Kentucky law, the City shall not attempt to avoid responding to a lawful open records request submitted by a party involved in litigation, when the requested documents could be obtained through an applicable provision in the Kentucky Rules of Civil Procedure.

(I) The City shall not, by ordinance, order, contract or other formal or informal action, attempt to restrict access to, offer assurances of confidentiality for, or promise to withhold, public records that are not already exempt under one or more exemption codified at KRS 61.878(1)(a) through (p).

(J) A City employee, or applicant for employment, is entitled to inspect and obtain copies of any records that relate to the employee or applicant, even if the records are statutorily exempt, unless the employee is under criminal or administrative investigation or requests a copy of an examination that will be given again. The City employee, or applicant for employment, shall comply with the City's uniform open records policy in accessing public records of the City or public agencies operating under its jurisdiction.

(K) The City shall not withhold statistical information not descriptive of any readily identifiable person. The City is not, however, obligated to compile statistics that do not already exist to fulfill an open records request.

(L) If a requested public record contains both exempt and nonexempt information, the City shall separate the exempted information and make the nonexempt information available. The City shall identify the exemption relied upon in withholding exempted information in its final written response to the request and provide a detailed explanation of how the exemption applies to the information withheld.

(M) Although access to body worn camera recordings shall be governed by KRS 61.870 to 61.884, as well as the retention requirement set forth in the Local Government General Records Schedule, Records Series 6707, KRS 61.168 identifies fourteen exceptions to the general rule of openness that the City may, in its discretion, invoke to limit access unless certain conditions, identified at KRS 61.168(5), are met.

(N) Public agencies, and officials and employees of public agencies, shall comply with the City's uniform open records policy in accessing public records of the City or public agencies operating under its jurisdiction, but shall enjoy an enhanced right of access to otherwise exempt public records if the public records are necessary in the performance of a legitimate government function or serve a legitimate governmental need. Public agencies, officials, or employees who obtain otherwise exempt public records for these purposes shall ensure the records are not publicly disclosed.

(O) To the extent feasible, the City shall notify a person or persons affected by disclosure of records containing personal information that a request for records relating to the person(s) has been received and that the City intends to release the records two weeks from the date of notification. Such a person(s) has standing to bring an action against the City in circuit court to prevent disclosure of the records if the court finds that disclosure of the personal information would constitute a clearly unwarranted invasion of personal privacy. The City shall agree to postpone final action on the request for two weeks, and afford the person(s) an opportunity to review the records in that period, but if no action has been initiated after two weeks, the City shall release the records.

Statutory References:

KRS 61.878(3); KRS 61.878(2); KRS 61.878(4).

§ 39.08 OPEN RECORDS DISPUTE RESOLUTION.

(A) A requester who is dissatisfied with the City's handling of an open records request may appeal the City's response to the Kentucky Attorney General or to the Kenton County Circuit Court.

(B) An inmate confined in a correctional facility must appeal to the Attorney General before appealing to the courts pursuant to KRS 197.025(3), and must do so within twenty days of the City's denial of a request. All other requesters may bypass the Attorney General and initiate an appeal in the circuit court, and there is no time limitation on when the requesters must initiate an appeal.

(C) Pursuant to KRS 61.880(2)(c), the City has the burden of sustaining its action in an appeal to the Attorney General. Pursuant to KRS 61.882(3), the City has the burden of proof in an appeal to the circuit court. The City "bears the burden of proof . . . and what it must prove is that any decision to withhold responsive records was justified under the Act."

(D) Notification of receipt of an open records appeal, and the letter of appeal, shall be immediately directed to the City Clerk or the City Clerk's designee, and a copy immediately forwarded to the City's Legal Department.

(E) In an appeal to the Kentucky Attorney General, the City may supplement its denial, or otherwise explain its actions, in writing, and shall provide the appellant with a copy of its written supplemental response. The City shall comply with the Attorney General's request for additional documentation, and shall provide the appellant with a copy of its written response. If the Attorney General requests a copy of the public records in dispute, the City shall comply with the request but shall not provide the appellant with a copy of the disputed records.

(F) An open records decision issued by the Kentucky Attorney General pursuant to KRS 61.880(2) shall have the force and effect of law if not appealed to the Kenton Circuit Court within thirty days.

(G) If the City receives an unfavorable ruling from the Attorney General, the City shall, within the thirty day period, determine whether to comply with the decision by releasing the previously disputed records or taking appropriate corrective measures, or to seek judicial review of the adverse open records decision. In no case shall the City ignore an adverse open records decision beyond thirty days and force the requester/appellant to petition the Kenton Circuit Court to enforce the legally binding open records decision.

Statutory References:

KRS 61.880(5)(b); KRS 61.880(2); KRS 61.882(3)

DOCUMENT RETENTION POLICY

§ 39.09 RECORDS MANAGEMENT AND RETENTION.

(A) KRS 61.8715 recognizes "an essential relationship" between the intent of Chapter 61 of the Kentucky Revised Statutes, relating to open records, and the intent of Chapter 171 of the Kentucky Revised Statutes, relating to records management and the role of the Kentucky Department for Libraries and Archives ("KDLA"), declaring that in order "to ensure the efficient administration of government and to provide accountability of government activities, public agencies are required to manage and maintain their records according to the requirements of these statutes." The City recognizes that proper records management facilitates records access.

(B) The City shall ensure that records containing adequate and proper documentation of its organizational functions, policies, decisions, procedures, and essential transactions are created and preserved, including records containing information necessary to protect the City's legal and financial rights and the legal and financial rights of persons directly affected by the City's activities.

(C) The City shall establish an active, continuing program for the economical and efficient management of its records that includes effective controls over the creation, maintenance, and disposition of those records. The City recognizes that records retention schedules, which govern records retention and disposition, are a key component of this program.

(D) The City shall rely on the Local Government General Records Schedule and the Municipal Government Records Schedule for all questions concerning records management, retention, and disposition. These schedules, adopted in regulation at 725 KAR 1:061, provide legal authority for the destruction of City records that have met their retention period. The City shall employ procedures governing proper destruction of City records set forth in Destruction of Public Records: A Procedural Guide.

(E) City records retained beyond their authorized retention period may be subject to public disclosure upon request, even if the records retention was not required under the retention schedule.

(F) The City shall not destroy a record that has met its retention period, but not yet been destroyed, if the record is the subject of, or relates to, active or pending litigation, audit, open records request, or appeal of an open records decision.

(G) An unscheduled City record that does not appear on either the Local Government General Records Schedule of the Municipal Government Records Schedule shall be retained as a permanent record until it is properly scheduled.

(H) The City shall ensure that it retains control of any and all public records that are stored offsite or whose management and retention is outsourced, and that the records are immediately accessible for production in response to an open records request.

(I) The City shall maintain records in hard copy or electronic format based on the content of the records not the records' format. For example, correspondence may be transmitted electronically, by email, or by traditional means, on paper. If the correspondence documents the City's major activities, functions and programs and the important events in its history, it is official correspondence and shall be retained permanently. If the correspondence is not crucial to the preservation of the City's administrative history, is generally of a non-policy nature and without permanent value, and deals only with the City's general operations, it is routine correspondence and shall be retained for two years after which it can be destroyed. If the correspondence is not related to City business in any way and consists of messages of a purely personal nature, spam, and other unsolicited correspondence, it is nonbusiness related correspondence and shall be destroyed or deleted upon receipt or as soon as possible thereafter.

(J) All City officers and employees are responsible for maintaining the integrity of records regardless of whether those records are stored electronically or in hard copy. City records in the officer's or employee's custody and control must be properly managed, retained, and accessible until all legal, fiscal, and administrative retention periods have been met, regardless of the record's format.

(K) Communications conducted on email accounts issued by the City to City officials and employees shall be restricted to City business and are presumptively public records. Whether the public records are subject to public inspection and therefore open records depends on the content of the communication and the strict application of one or more of the sixteen statutory exemptions found at KRS 61.878(1)(a) through (p). City issued email accounts may be subject to search.

(L) City officials and employees shall use City issued email accounts in all matters relating to City business. If personal email accounts must be used, the City official or employee shall send a copy of the communication to the City official's or employee's City email account and forward any received message relating to City business to the City official's or employee's City email account.

(M) Records retention schedules and management practices apply equally to all City records regardless of whether the records originate or are stored on a publicly issued electronic device or on public premises.

(N) The City shall strictly adhere to records management and retention requirements established in KRS 171.410, et seq., and best practices as delineated in Managing Government Records: A Cooperative Undertaking, published by KDLA, and the guidance documents referenced therein.

Statutory References:

KRS 171.410, et seq; KRS 171.640; KRS 171.680

TRANSPARENCY POLICY

§ 39.10 PURPOSE.

The purpose of the Covington Transparency Ordinance is to ensure that the City provides open and transparent information to the citizens of Covington.

§ 39.11 GUIDELINES.

The City shall provide information and documentation to the public as follows:

(A) Meeting information.

- (1) The Board of Commissioners shall establish annually by ordinance the schedule for meetings of the Board of Commissioners. Notices of City Commission and committee meetings and City boards shall be posted on the City's website, and, when possible, distributed through the City's email list.
- (2) The complete agenda for caucus and legislative meetings, including any supporting documents for items on the agenda and the full version of ordinances, resolutions and orders will be made available in their entirety on the City's website no later than the Friday before the regularly scheduled Commission meeting. If the substance of the matter cannot be determined by reading the order, resolution or ordinance the City Solicitor shall prepare a statement summarizing the effective content of the order, resolution or ordinance so as to fully inform the public.

- a. This provision shall not prohibit or in any way limit the Board of Commissioners from adding additional items to the agenda for caucus and legislative meetings as late as the meeting itself.
- (3) If a special meeting is called in accordance with KRS 61.823, the complete agenda and the ordinances, resolutions and orders will be made available in their entirety on the City's website at least 24 hours before the meeting. If the substance of the matter cannot be determined by reading the order, resolution or ordinance the City Solicitor shall prepare a statement summarizing the effective content of the order, resolution or ordinance so as to fully inform the public
- (B) Meetings. All City meetings of the Board of Commissioners and its committees shall be open to the public unless otherwise exempt under open meetings law.
- (1) Minutes of meetings shall be posted on the City's website.
- (2) Meeting notices and agendas shall be posted at or near the entrance of City Hall prior to the meeting.
- (3) Streaming public meetings on cable and the internet shall be allowed.
- (4) Copies of the agenda shall be available to those attending meetings.
- (5) Citizens shall be provided an opportunity to comment about public issues at City Commission legislative meetings.
- (C) Contact information. The names, titles, email addresses and telephone numbers of the City's elected officials and department heads shall be provided on the City's website.
- (D) Budgets and Financial Reports. The City shall post on the City's website:
- (1) Each annual budget;
- (2) Monthly financial reports; and
- (3) The Comprehensive Annual Financial Report (CAFR), Management Letter and Single Audit.
- (E) Taxes and fees. The City's taxes and fees shall be made available on the City's website.
- (F) Ordinances. The City's Code of Ordinances and the Zoning Code shall be posted on the City's website. A copy of the City's code of ordinances and all ordinances adopted since the latest codification shall be available for inspection at City Hall.

- ## Section 2

Joseph U Meyer
MAYOR

Margaret M. Huban
CITY CLERK

5-28-19 (First Reading)

Meeting Date:					
ORD.: 1ST		2ND 6-11-19			
OR:					
	Bowman	2 Downing	Smith	1 Williams	Meyer
Yeas	✓	✓	✓	✓	✓
Nays					
Present, not Voting					